

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7870 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

JAYKANT ALIAS JAGAN PARASHRAM

Versus

COMMISSIONER OF POLICE

Appearance:

MR SATISH R PATEL for Petitioner

MS PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 26/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 27th August, 1998 made by the Commissioner of Police, Ahmedabad City, under the powers

conferred upon him under sub-section (1) of section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The petitioner is alleged to be a 'bootlegger' and also a 'dangerous person' within the meaning of sections 2 (b) and 2 (c) of the Act respectively. The petitioner's activities are held to be prejudicial to the maintenance of public order. As many as four cases punishable under Chapter-XVI of the IPC have been registered against the petitioner during the period from 10th November, 1997 to 20th June, 1998. Nine offences punishable under the Bombay Prohibition Act have been registered against the petitioner during the months of October 1997 to January 1998. In each of the said cases, large quantity of country liquor was recovered from the possession of the petitioner.

The only ground on which the impugned order has been challenged is : the order of detention, the grounds of detention and the supporting materials all are in Gujarati. The petitioner is a Tamil by birth and has studied in Tamil medium. He knows Tamil as well as Hindi languages. However, he is unable to read or understand Gujarati language. The petitioner's mother, therefore, on 16th September, 1998, made a representation to the Home Minister and requested for the Hindi translation of all the documents. Till the date neither the said representation has been answered, nor has been acceded to.

The averment made in the petition in this respect has remained uncontroverted. It is not even the case of the respondents that the petitioner knows Gujarati language, and is able to read as well as understand the contents of the documents in Gujarati. In absence of such assertion and in view of the uncontroverted averments made in the petition, it must be held that the petitioner was furnished the order of detention, the grounds of detention and the supporting materials in Gujarati, a language not known to the petitioner. Hence, the petitioner is deprived of his right to make an effective representation against the impugned order. The action, therefore, being unconstitutional, is vitiated.

For the aforesaid reason, the petition is allowed. The impugned order dated 27th August, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI*